

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Indian Health Service

_ Rockville, Maryland 20857

Refer to: OTA

INDIAN HEALTH SERVICE CIRCULAR NO. 95-15

FUNDING OF PERSONNEL COSTS
UNDER P.L. 93-638 CONTRACTS/COMPACTS

Sec.

1. Purpose
2. Background
3. Policy
4. Guidance
5. Distribution
6. Supersedure
7. Effective Date

1. Purpose. To clarify the availability of funds to meet certain personnel costs (i.e., special pays) for contracts and compacts awarded pursuant to Public Law (P.L.) 93-638 the Indian Self-Determination and Education Assistance Act, as amended, and the criteria for obtaining such funding.

2. BACKGROUND.

Section 106(a)(1) of P.L. 93-638, as amended, states:

The amount of funds provided under the terms of self-determination contracts entered into pursuant to this Act shall not be less than the appropriate Secretary would have otherwise provided for the operation of the programs or portions thereof for the period covered by the contract, without regard to any organizational level within the Department of Interior or the Department of Health and Human Services, as appropriate, at which the program, function, service, or activity or portion thereof, including supportive administrative functions that are otherwise contractible, is operated.

The amount of funds that the Secretary of Health and Human Services would have provided for the direct operation of the Indian Health Service (IHS) program to be contracted or compacted will be determined based on the processes actually

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utilized by the Secretary to allocate resources among program activities. This would include all recurring and nonrecurring funds that are or would be made available.

Funds are made available to the IHS Areas for certain personnel costs for IHS physicians and dentists who meet specific criteria and agree to specific service obligations. This is intended to enhance the recruitment and retention of qualified health professionals by the IHS. Historically, only contractual funds have been maintained in a centralized pool at IHS Headquarters and are reimbursed to IHS Areas as nonrecurring funds. This policy addresses the level of salary support for physicians and dentists including contractual special pays and physicians' comparability allowances. These are the only special pays reimbursed by IHS Headquarters. All other special pays are paid directly from IHS Area office and service unit operating funds (e.g., nurse accession bonuses, nurse anesthetist pay, continuation pay for scientists and engineers, and special pay for optometrists).

3. Policy. The IHS will distribute funds for salary support for physicians and dentists at programs contracted and compacted under P.L. 93-638 on the same basis as for the IHS direct programs.
4. GUIDANCE. To determine the levels of salary support, the IHS will include all special and bonus pay that would be used to determine the salaries of health care professionals at comparable IHS sites, training, and experience levels at the IHS-operated programs.

Salary support will only be provided for the IHS-funded portions of those positions included in the original contract or compact, or that are added to the program through appropriations from the Congress to the IHS. If funds are not appropriated, the costs will be absorbed as negotiated. Tribal programs are responsible for the entire salary of physicians and dentists that occupy positions added to the program using funds obtained from non-IHS sources.

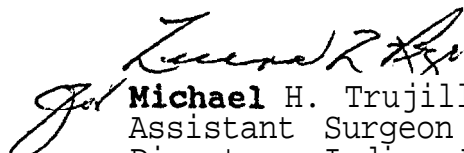
Once funds for contractual special pays for physicians and dentists have been added to the service unit budget on a recurring basis no additional funds will be made available from IHS Headquarters. This is a one-time distribution of funds to service unit budgets for use in contracts and compacts. To the extent that nonrecurring funds have been

9/29/95

INDIAN HEALTH SERVICE CIRCULAR NO. 95-15

made available to a program or portion of a program, or to the extent that these funds would have otherwise been provided for IHS operating the program or portion thereof, they will be included in the amount of funds calculated in accordance with Section 106(a)(1) for a tribe or tribal organization proposing to contract under P.L. 93-638. The contractor maintains the discretion and flexibility to establish specific salary amounts, benefits, and recruitment and retention programs. Once distributed, no additional funds will be made available to the contractor for these purposes.

5. DISTRIBUTION. The IHS special pay pool will be distributed to the Areas based on each Area's average disbursements during fiscal years 1992 through 1994. This 3-year average of funding will be placed in the base budget to be used as salary support. The formula is based on the assumption that there will be no increases in available funds for special pays over the fiscal year 1995 amount and is subject to availability of future appropriations. Consultation with the tribes regarding the formula used in each Area is the responsibility of each Area Director and must be conducted prior to distribution of funds.
6. SUPERSEDURE. Indian Self-Determination Memorandum No. 85-4, Funding of Nonrecurring Personnel Costs Under P.L. 93-638 Contracts," dated September 20, 1985.
7. EFFECTIVE DATE. This policy circular is effective upon the date of signature by the Director, IHS.


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